

REMARKS

It is noted that the corrected or substitute drawings, submitted on June 20, 2003, have not been approved because they purportedly do not overcome all of the previous objections and do not comply with revised amendment practice as recently promulgated. Initially, it is noted that the revised amendment practice has been made effective as of July 30, 2003, which is subsequent to the date of filing the drawings. Nevertheless, the Examiner's point as regards determination of changes is well taken, and hence a marked-up copy of the drawings as originally submitted, supplemented by changes presented herein in response to the September 8, 2003 office action, accompany herewith.

The Examiner's various objections to the drawings and specification are addressed in the order presented.

In enumerated paragraph 1, the Examiner notes improper labeling as drawings to designate replacement drawings. This has been addressed by resubmission of substitute drawings, together with a marked-up copy, herewith.

The Examiner complains that cross-sectional lines still include letters. The Examiner is under impression that cross-sectional lines need to be denoted only by Roman or Arabic numerals. However, this is not correct. 37 CFR 1.84(h)(3) states only that "the ends of the broken lines should be designated by Arabic or Roman numerals corresponding to the view number of the sectional view, and should have arrows to indicate the direction of sight." This statement does not exclude the possibility of inclusion of letters, and that would appear to be preferred where the Figure to which the

cross-sectional view conforms is itself designated by mixed Roman numeral and alphanumeric character, namely, "Figure 1A."

The Examiner states that the line from 10 should be either an arrow or the line should extend all the way to the structures it denotes in Figures 2, 3 and 4, referring also to numeral 50 in Figure 3A and others. The Examiner also notes necessity of changing solid lead lines to dashed lead lines, denoting underlying structure in Figures 2-4 and 7-9. However, these issues have been addressed in the previously filed drawing amendment, and replicated in the drawing amendment presented herewith.

In Figure E, the numeral "80" is changed to "86."

The Examiner notes that Figure 4 is deficient in that element 66A is shown as being inside the pocket (whereas it is outside), and several items are mislabeled. Corrections in this respect are made to Figure 4, with element 66A now presented in dashed lines, lead lines corrected for element 67A and 67C and specified reference numerals corrected.

The numeral 50 in Figure 7A is presented correctly with arrowhead, and the numeral 22 added to Figure 8.

Referring now to issues in enumerated paragraph 3 relating to disclosure, please note the following with reference to section designations as used by the Examiner.

- 1) The Examiner questions where line 3B-3B is set forth. In response, reference is made to Figure 3, comporting in position to cross-sectional Figure 3B.
- 2) The numeral 100, questioned in Figures 2, 3, 4 is deleted.
- 3) The numeral 43 in Figure 1H is deleted.

4) Reference numeral 17A, appearing in Figure 1F, is added to page 8, line 18, of the specification, having been previously mistakenly deleted. The first paragraph of the Summary is corrected for better clarity.

5) Description in the text and drawings with respect to numerals 42, 21, 21A, 42A and 42B are said to be inconsistent. In response, amended are inserts at pages 7 and 8, as well as drawing corrections at Figures 1D-1F, for consistency.

The last sentence of the insert to page 8 is said to be unclear because an arrow is described whereas Figure 1D shows an arrow having two arrowheads. This issue is inconsequential, but amended in the specification to the Examiner's preference. Figure 1D is revised to change "21A" to "21", and in Figure 1F, numeral 21 is deleted, to avoid possible confusion.

The Examiner questions elements 42A and 42B. In response, please note that element 42A represents a seam side of fabric 50 (element 42 represents the seam itself); element 42B is deleted.

The Examiner questions the amendment to the third full paragraph on page 8, in that stitch line 17 appears to overlay itself. This description has been clarified by amendment herein.

It is noted that the Examiner has expended quite a bit of effort correcting the drawings and text as they pertain to Figures 2-8, inclusive. Correction of the specification and drawings, pertaining other than to the subject matter of Figures 1-1G, elected herein for prosecution, is considered unnecessary. Nevertheless, the undersigned has exercised best efforts to accommodate the Examiner. To the extent that any

disclosure or drawing issues remain unresolved, necessary or not, the Examiner is encouraged to contact the undersigned by telephone for prompt resolution.

6) The Examiner initially questions what 64 and 65 are, in Figures 2-2E. These numerals were previously deleted.

The Examiner notes an error in Figure 2A, in the cross-section corresponding to line 2A-2A. Correction was made in the amendment previously submitted, and is resubmitted herewith.

It is said that in Figure 2A, numeral 68 “denotes the space not the sling and 20 does not denote the stitching.” The designation 68 has been revised to an arrow, designating the sling; numeral 20 already points to stitching, as is appropriate and as described in the specification.

The Examiner questions where strip 62 in Figure 2A is shown. The designation, however, is plainly shown (it appears that the Examiner is ignoring the previously submitted drawing amendment, perhaps because it was unapproved). In a similar vein, edges 61B and 71 and seam line 71A (seam line 71 is not an interior construction) are said to incorrectly designate other than the interior of the pocket. In response, the lead line of 71 is corrected; 61B and 71A do not appear in Figure 2. The element 61A is said to describe both cuff and seam. However, the specification and drawing refer to element 61 only as a cuff.

The Examiner asserts that Figure 2 appears to define an intermediate step of construction, inconsistent with the description of Figure 2 on page 4. The description of Figure 2 on page 4 has been amended, for consistency.

The Examiner questions where in Figure 2 is the structure as set forth in the first paragraph on page 10, last sentence thereof. Page 10 is amended herein for better clarity.

Reference numerals 60 and 61 in Figure 2C have been deleted in the previous amendment, as resubmitted herewith.

The Examiner also complains of difference in configuration of stitching 70 in Figures 2C-2E versus that shown in Figure 2. This is to be expected, however, as in Figure 2, the pocketed sling 68 is bowed, whereas in other Figures the sling is planar. No correction is necessary.

7) Alternative use of Velcro and snaps, in Figures 3 and 3A, is deemed inconsistent. Further revisions to the text, for enhanced consistency, are made.

8) The Examiner replicates the comments with regard to 6) as it would apply to Figures 4-4B. It is unclear what the Examiner is referring to in this respect, as the section 6 issues do not appear to reside with respect to Figures 4-4B. The Examiner is invited to contact the undersigned by telephone, for clarification.

9) The Examiner notes inconsistency of the description at page 12, line 11 – page 14, line 15, and Figures 5-6B. Figure 6 is amended, to address inconsistency. The Examiner questions where sides are bent and joined at a seam in Figure 5A. Bending and joining is initiated in Figure 5A, but appears in completed form in Figure 5B. However, it is reiterated that the subject matter of Figure 5 is not elected, nor under substantive examination.

Strip 403a, questioned by the Examiner, is a stitch line, depicted in Figure 5. Element 409, questioned by the Examiner, does not seem to appear in the specification, so the Examiner's question is not understood. Nevertheless, it is reiterated that the subject matter of Figure 5 is not under examination.

Strip 620, mistakenly depicted as being within pocket 502, has been corrected in the drawing. Element 163', corrected to 162' and element 163A are depicted in Figure 6.

Element 108 is appropriately shown as a seam, not overlap stitching. Nevertheless, the embodiment of Figure 6 is not under examination.

The Examiner questions where in Figure 6A is the structure as set forth on page 14, lines 12-13. The Examiner also notes pocket elastic as being described as both 400A and 40 and shown as 400A. Element 620A is questioned also. The specification is amended to address these concerns.

10) The description on page 14, line 16 – page 16, last line, Figures 7-9 and Figure 1 are said to be inconsistent. Element 42' has been amended to read 42 on page 15, the remaining description appearing to be sufficient, bearing in mind also that Figures 7-9 are non-elected.

The Examiner questions where 43 is shown, but it is not apparent where 43 is described in the specification. The numeral 102 has been added to the description of Figure 7.

As regards the claims, claim 10, line 1, the article "a" has been changed to "the." And the term "user" has been changed to "inner."

Considering now the claims on their merits, claims 1-3, 10 and 17-19 stand rejected. Rejection of claims 1-3, 17 and 18 is predicated under 35 USC 102(b) as being anticipated by Brownlee et al. Claim 10 is rejected on the same basis, or for purported obviousness, over the same reference. And claim 19 is rejected under 35 USC 103(a) as being unpatentable over a combination of Brownlee, Coates '526 and Ohara..

The term “laterally” in claim 1 is found to be indefinite, under 35 USC 112, paragraph 2.

Addressing the last issue first, the term “laterally” in claim 1 is deleted in favor of the Examiner-proposed wording “toward a center” in the last paragraph of claim 1. That is, claim 1, last paragraph as amended, now reads, in part “... four sides thereof being displaced inwardly from corresponding sides toward a center of the anchor layer ...”. The term “user” is changed to the Examiner-proposed term “inner” so that the paragraph now also reads in part “... and the inner layer at all four sides thereof extending from the anchor layer, on the inner side of the undergarment when the undergarment is worn, to form a pocket.”

An aspect of the claimed invention is depicted in Figure 1A, with inner layer 13 being stitched to the anchor layer 16 but not to the outer layer 12. This is important to enable the connection to be secure, even when anchor layer 16 is formed of a fabric, while avoiding the possibility of fluid leakage from the inside of the pocket 50 to the outside of outer layer 12, that would arise if stitching were to pass through both layers 16 and 12. In Brownlee, Fig. 9, channel 139 is secured to strips 141, 142 (anchors) by welding or glue 140 (the strips 142 are replaced by a sheet 143 in Figs. 10-12). In all of

these Figs. 9-12, the anchor 141-142, 143 is stitched to outer shell 100; in Fig. 13, there is no anchor layer. Claim 1, as amended, recites conversely that the inner layer of fluid resistant material is stitched to the anchored layer but not to the outer layer, an important structural and functional difference as compared with what is depicted and described in Brownlee. Indeed, Brownlee recognizes, but does not address a solution for, undesirable penetration of shell 100 by stitching, by recruiting welding for this purpose (see column 5, lines 30-35). Claim 1 accordingly is patentable.

Claim 20, added and depending from claim 1, recites further that the anchor layer is secured to the outer layer only at a peripheral edge of the outer layer, as depicted in Fig. 1A. This structure is not described or suggested in Brownlee, with anchor layer 141-142, 143 stitched to an intermediate portion of shell 100.

Claim 10 is patentable predicated on patentability of claim 1. In addition, claim 10 describes a structure best expressed in terms of how it is formed, that is, by removing corners of the pocket and joining together the remaining adjacent sides, followed by covering by an elastic strip. The structure so described is depicted clearly in Figure 1, with pocket sides joined together at stitching 42. This claim is not an inappropriate product-by-process claim, but rather one that describes the structure intended in the clearest, visually comprehensible, manner. Added claim 21 describes an aspect of the pocket, with stitch lines in the inner layer intersecting corners of the pocket, as Figure 1 depicts.

Claim 19 is rejected predicated on obviousness, using the Examiner's interpretation that "circumscribed" may be interpreted to encompass merely wrapping the

09/512,085

edge, rather than extending along the entire perimeter of the pocket (as intended).


Although applicant disagrees as to the Examiner's interpretation, because it violates common sense and is blatantly not intended from a reading of the specification to resolve any ambiguity, claim 19 is amended to recite specifically that the entire perimeter of the pocket is circumscribed by an elastic strip.

Claim 3 having been cancelled, claims 1-2, 10 and 17-21 are presented and in condition for allowance.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT, WILL & EMERY



Stephen A. Becker
Registration No. 26,527

600 13th Street, N.W.
Washington, DC 20005-3096
(202) 756-8000 SAB:cms
Facsimile: (202) 756-8087
Date: December 19, 2003



Figure 1C

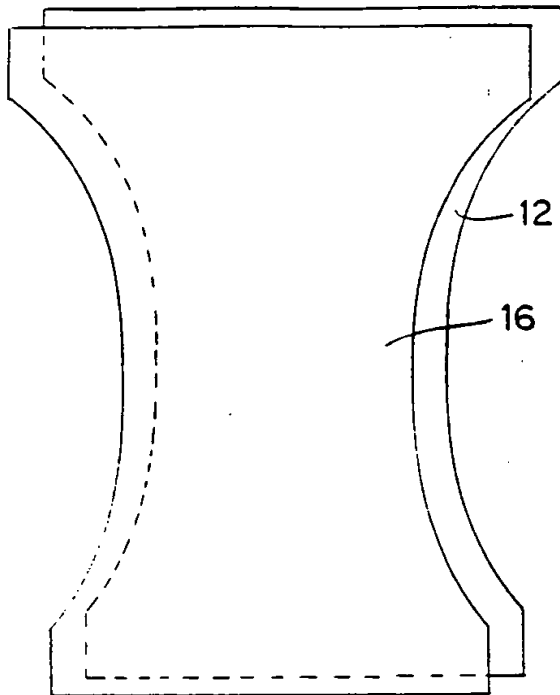


Figure 1D

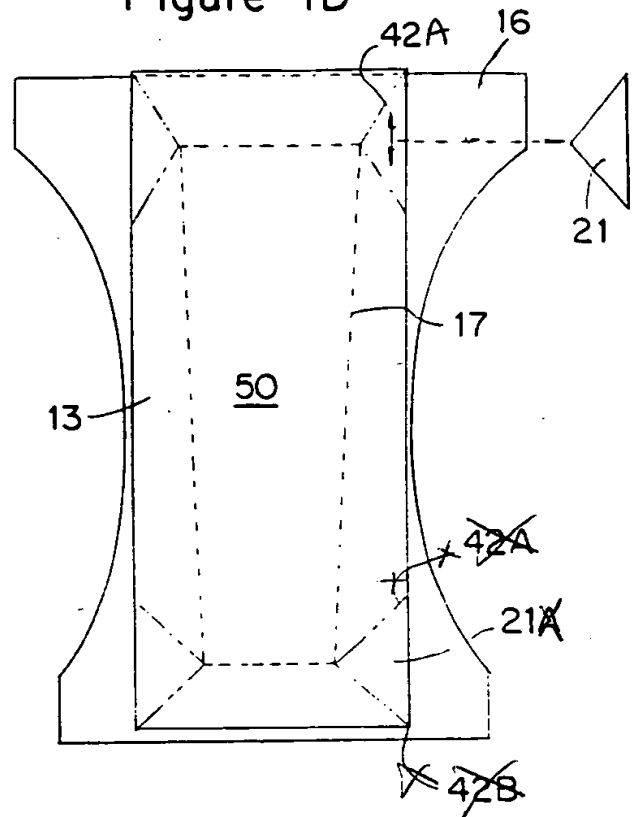


Figure 1E

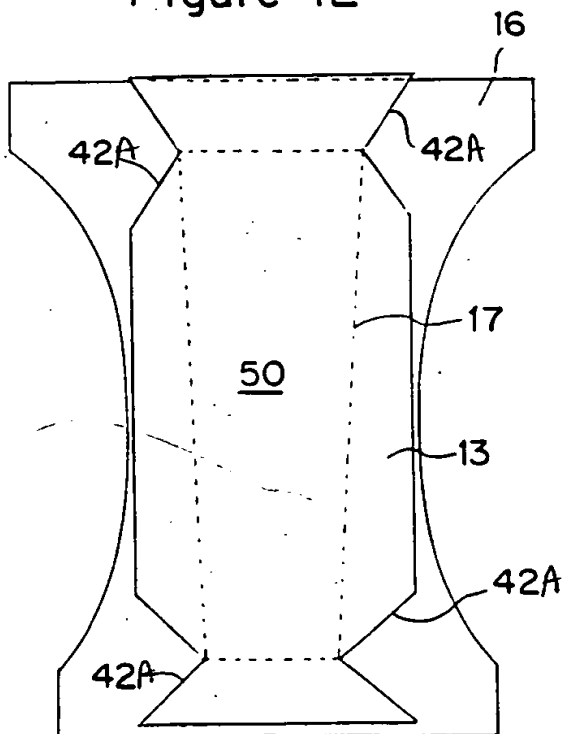


Figure 1F

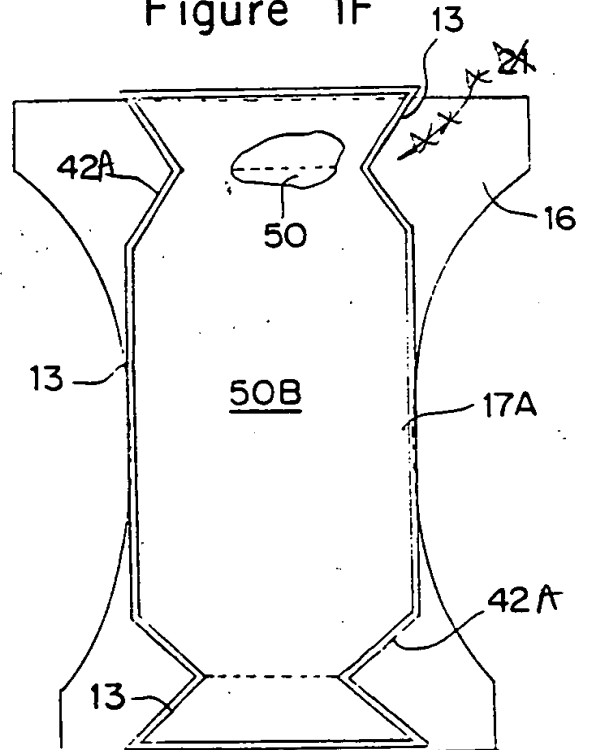




Figure 1H

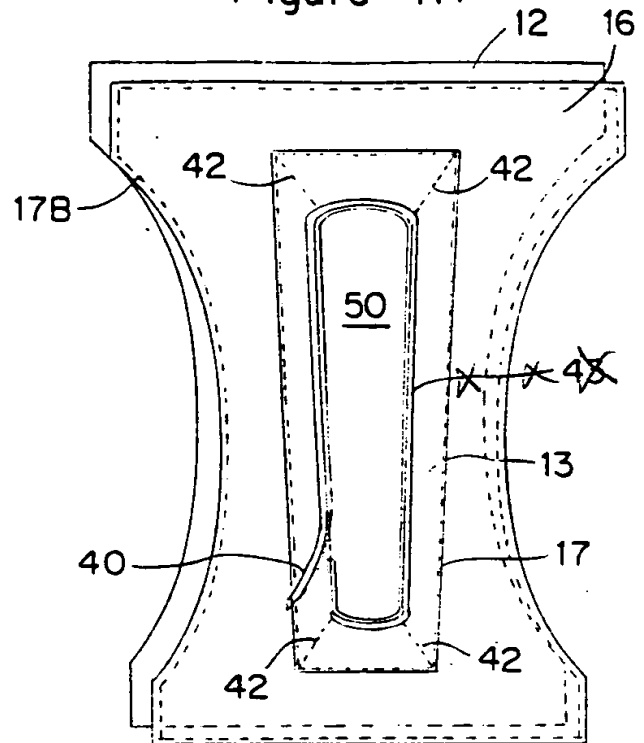
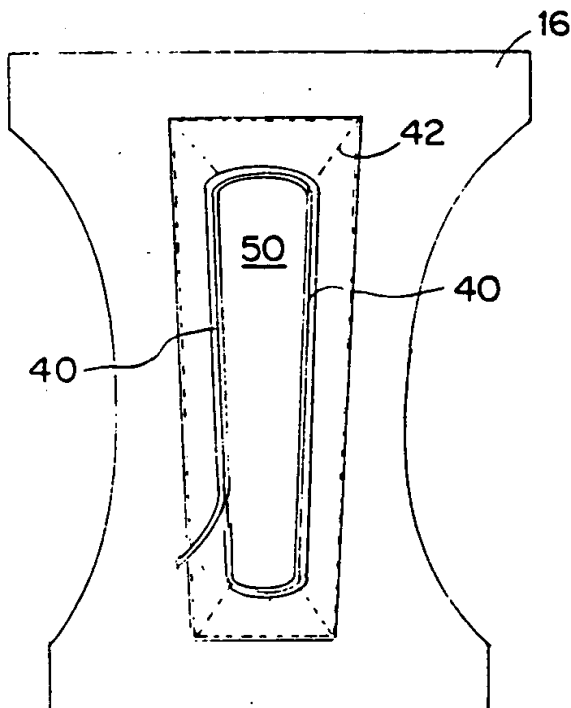


Figure 1G



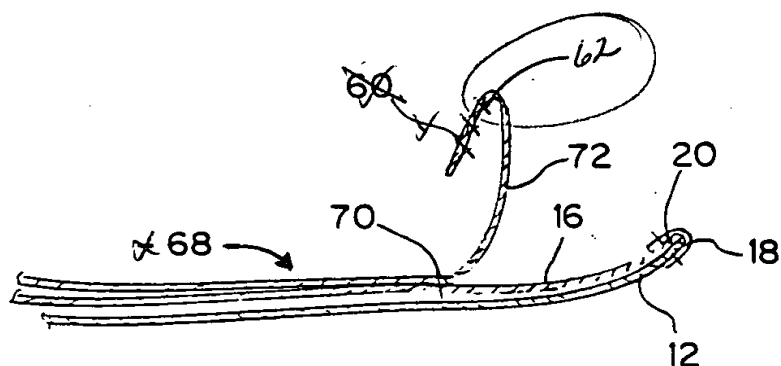


Figure 2A



Figure 2B

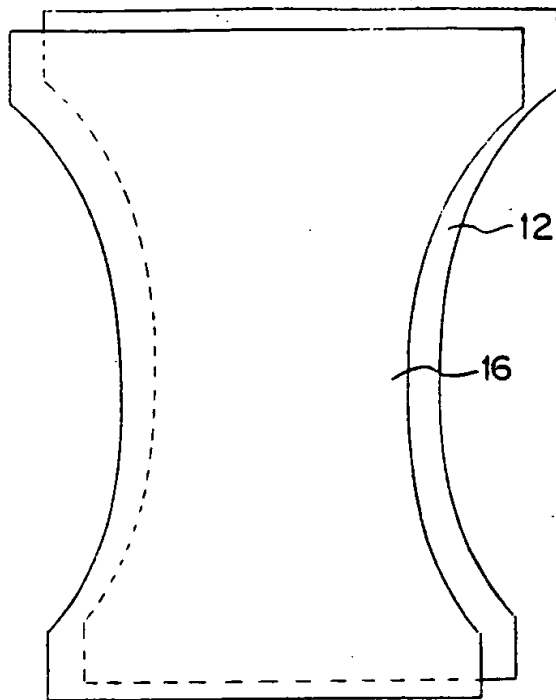


Figure 2C

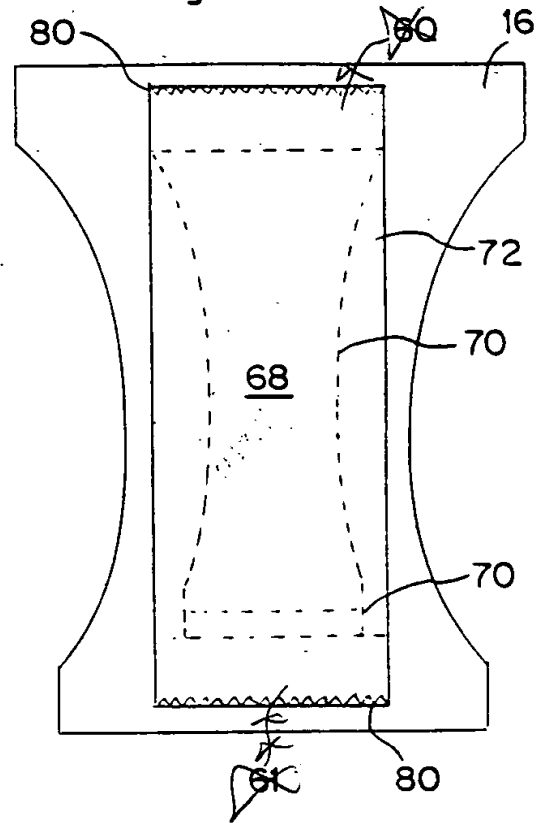


Figure 2D

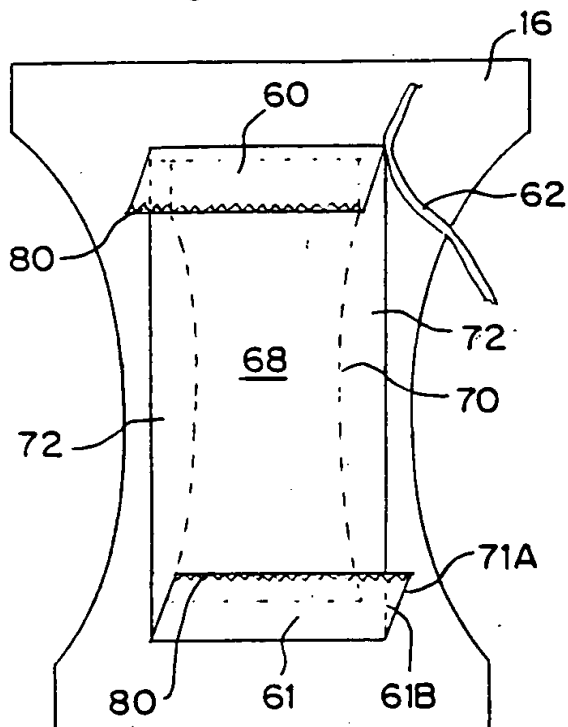
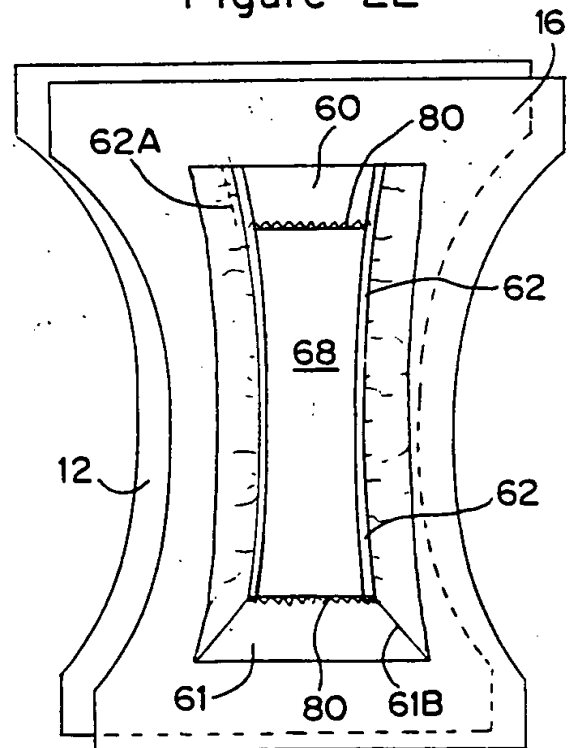


Figure 2E



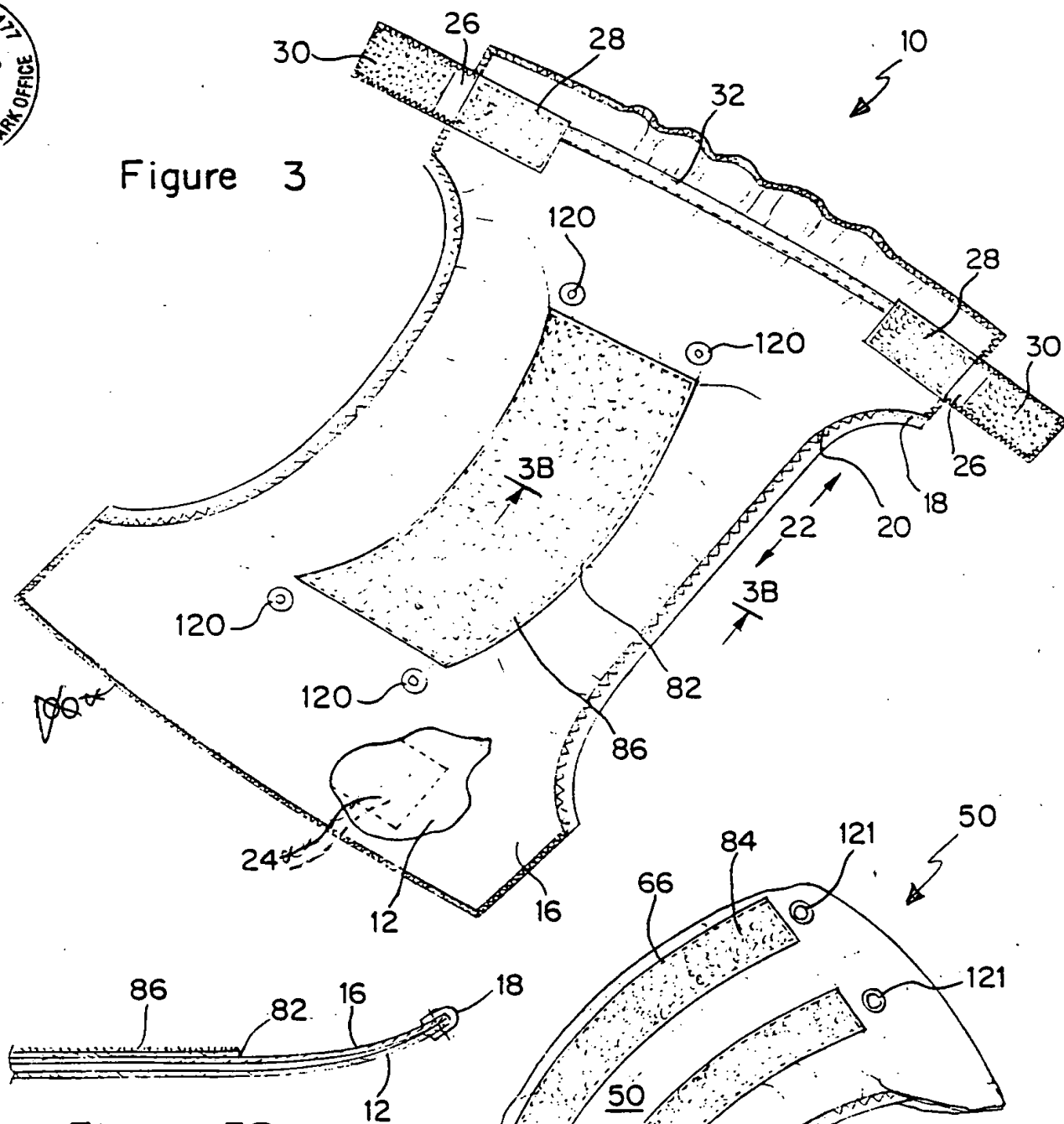
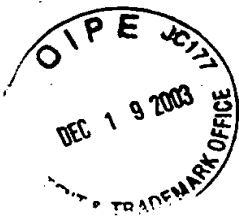


Figure 3B

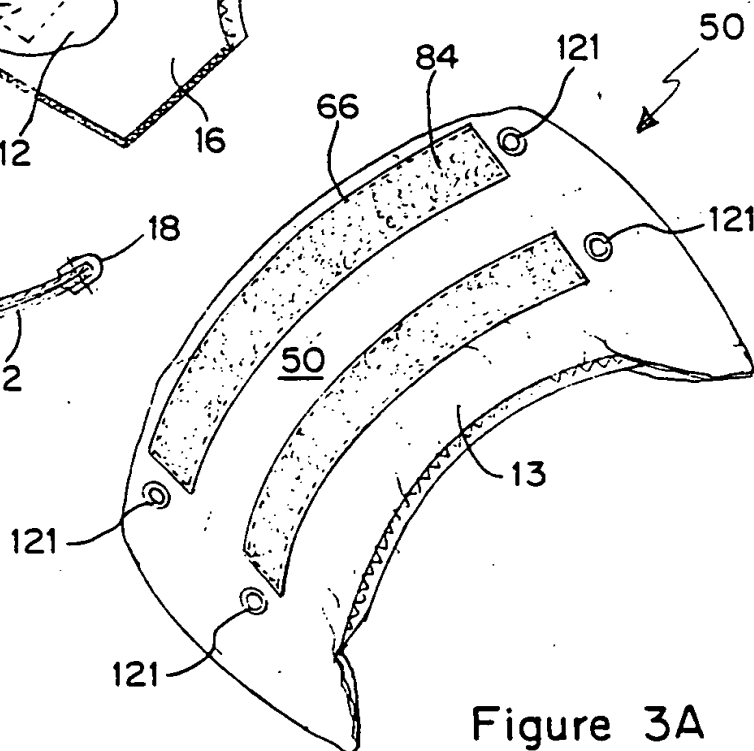


Figure 3A



Figure 3C

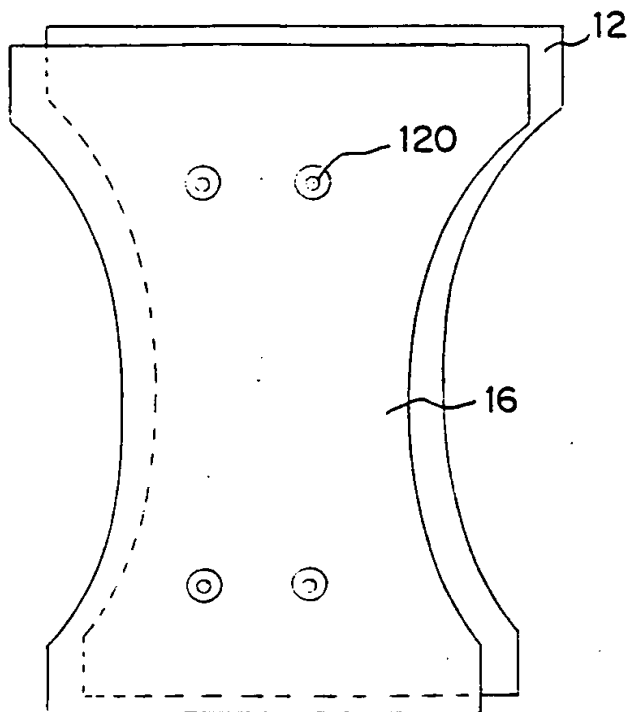


Figure 3D

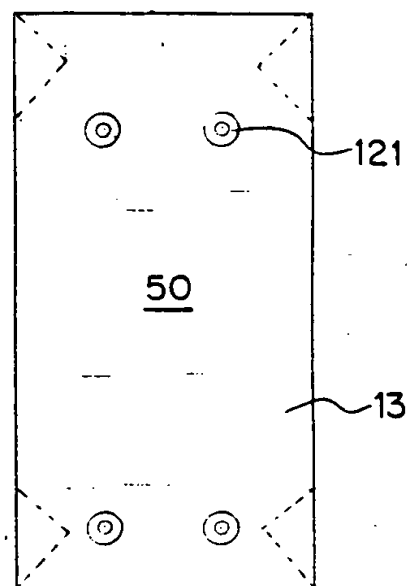


Figure 3E

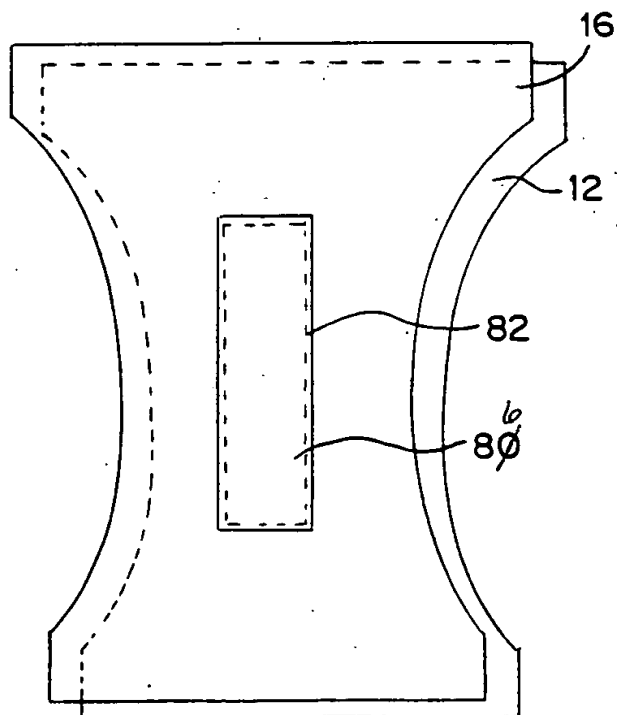
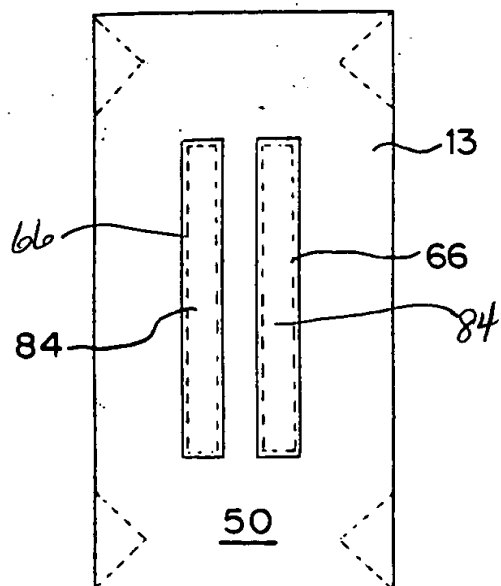


Figure 3F



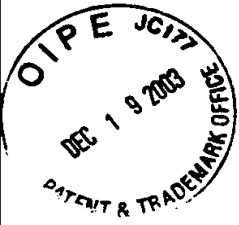


Figure 4

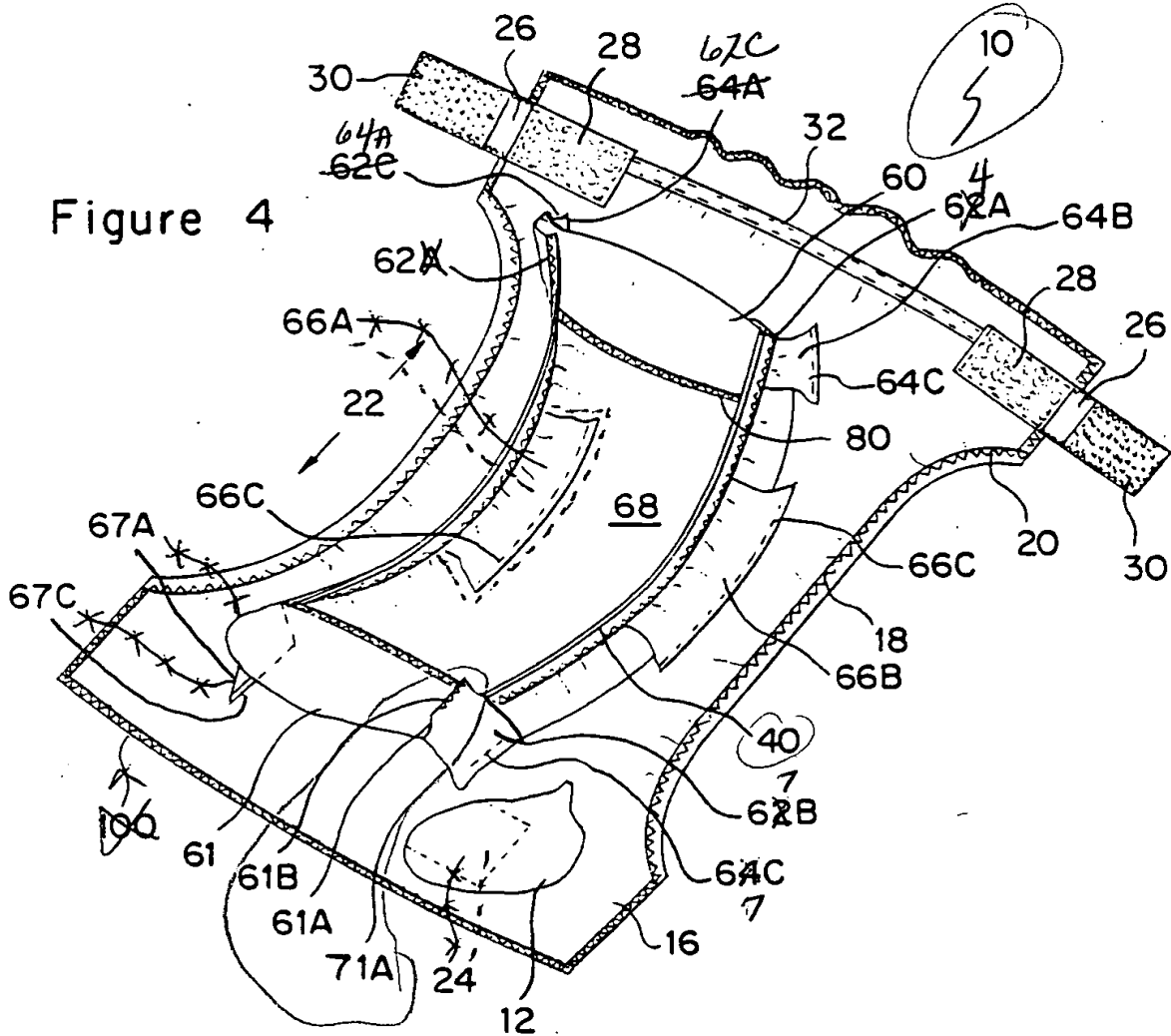


Figure 4A

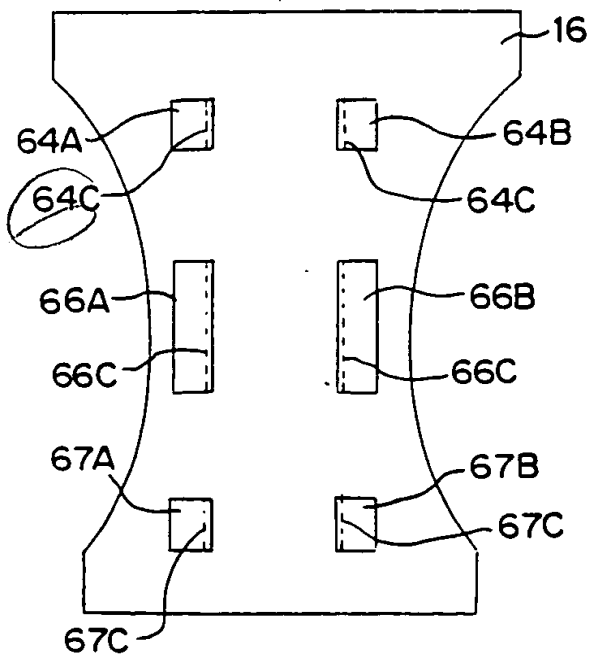


Figure 4B

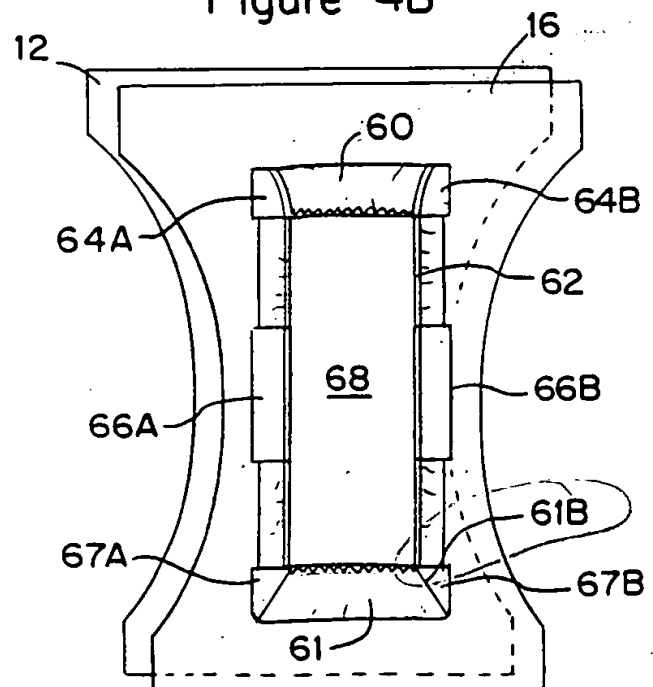




Figure 5

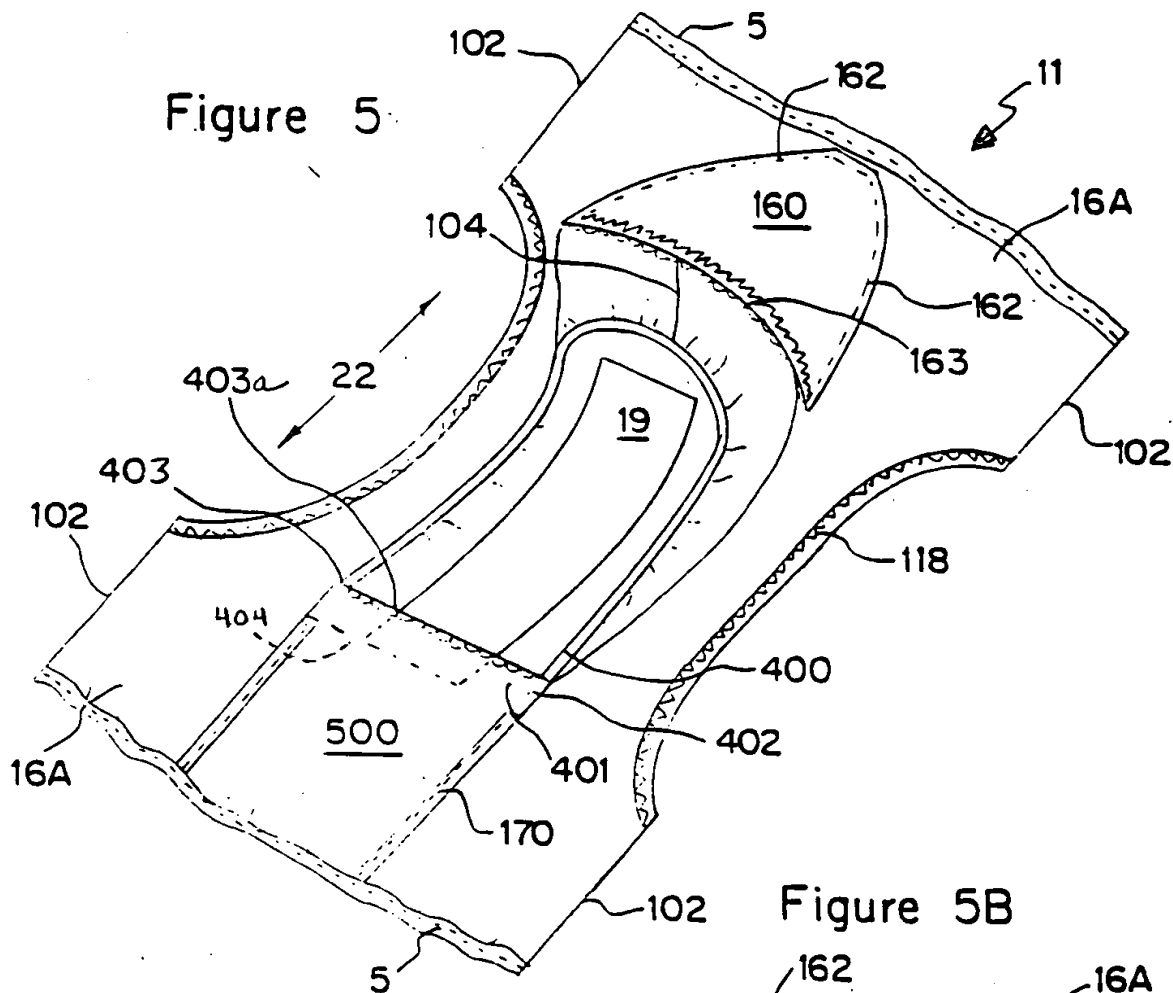


Figure 5B

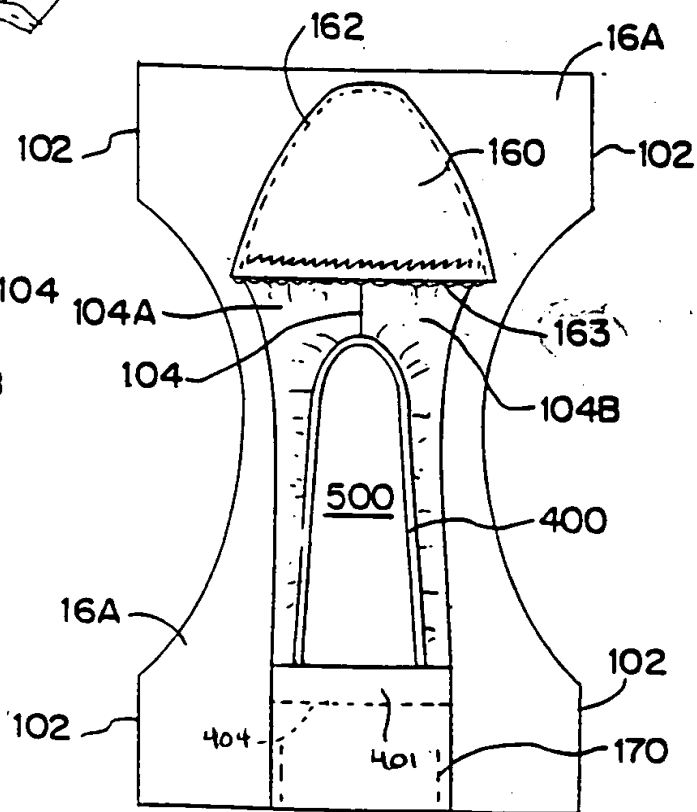


Figure 5A

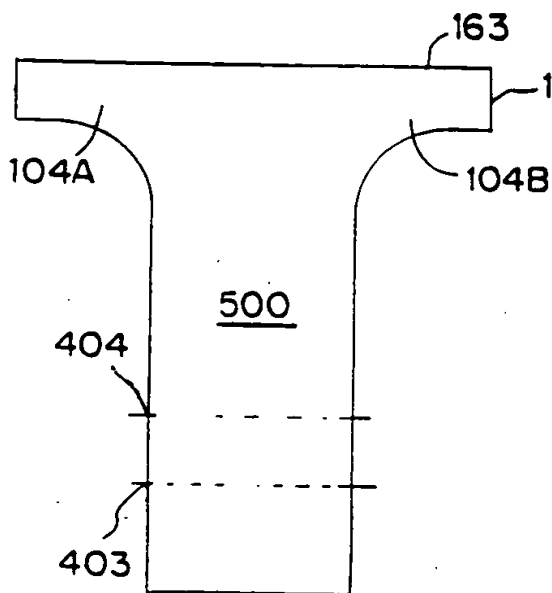




Figure 6

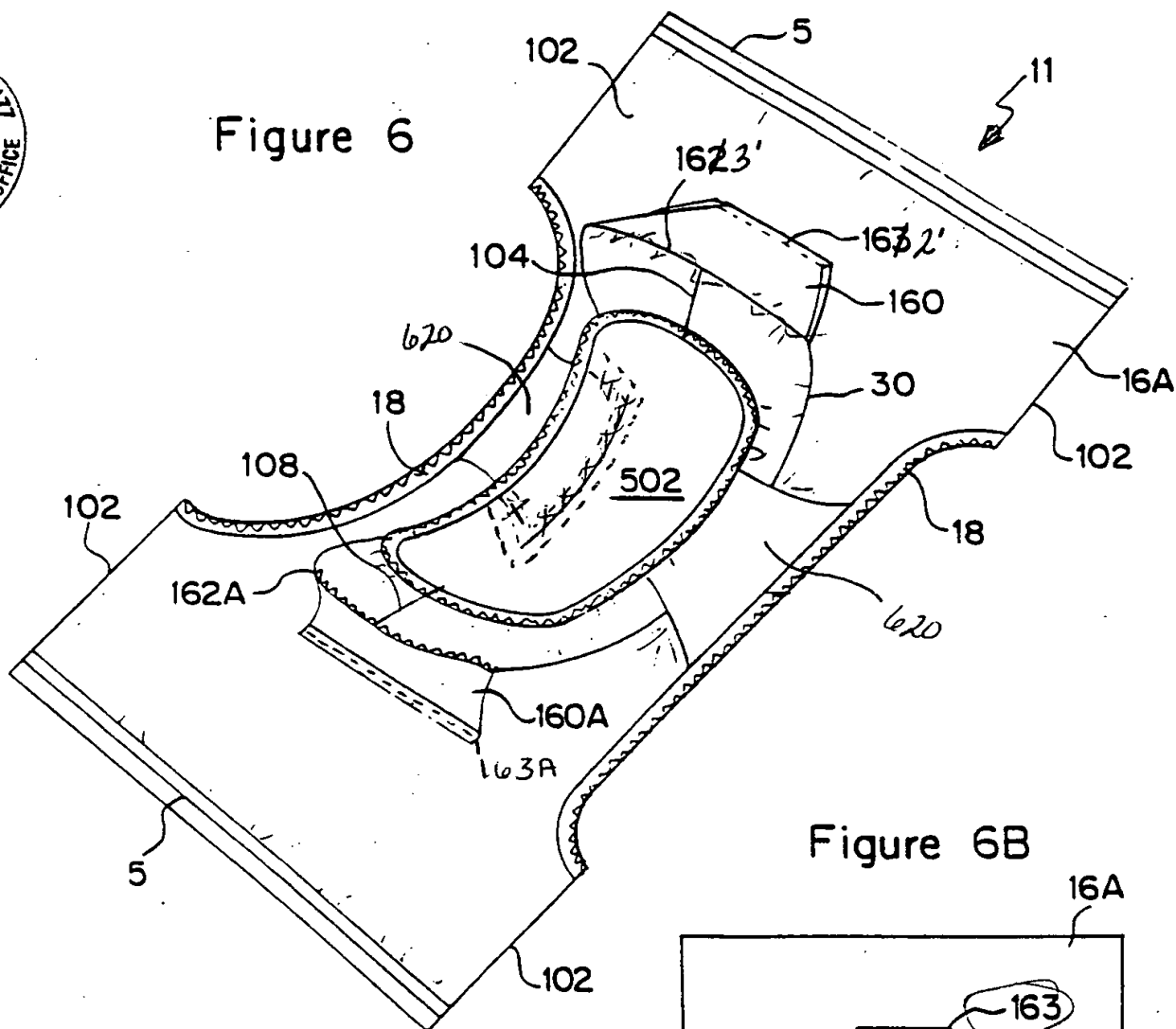


Figure 6A

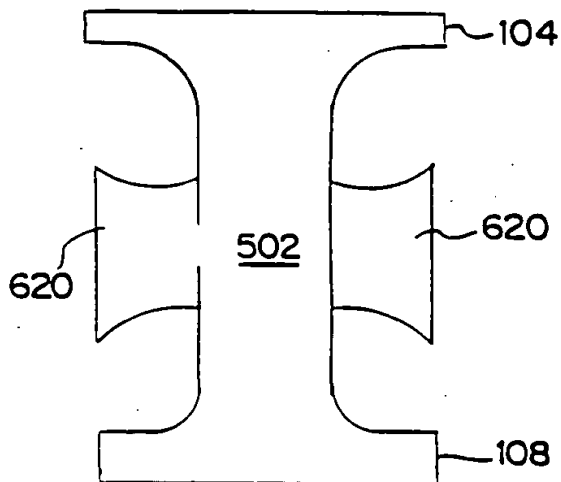


Figure 6B

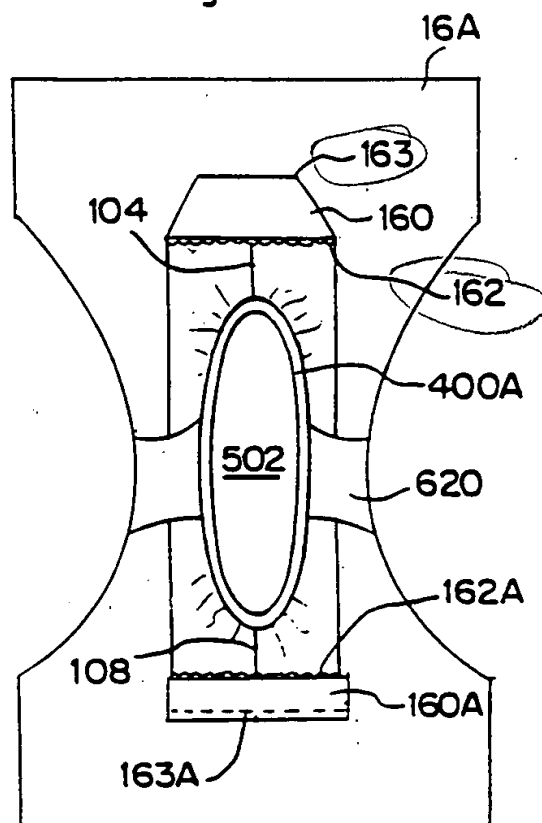




Figure 7

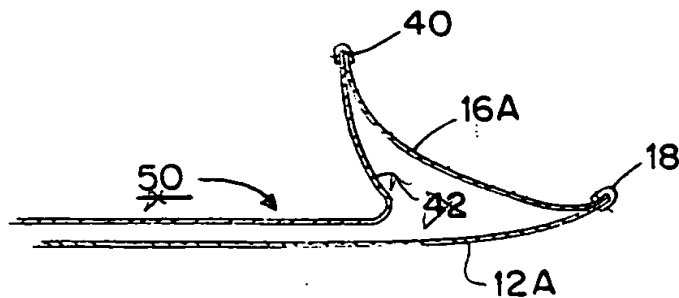
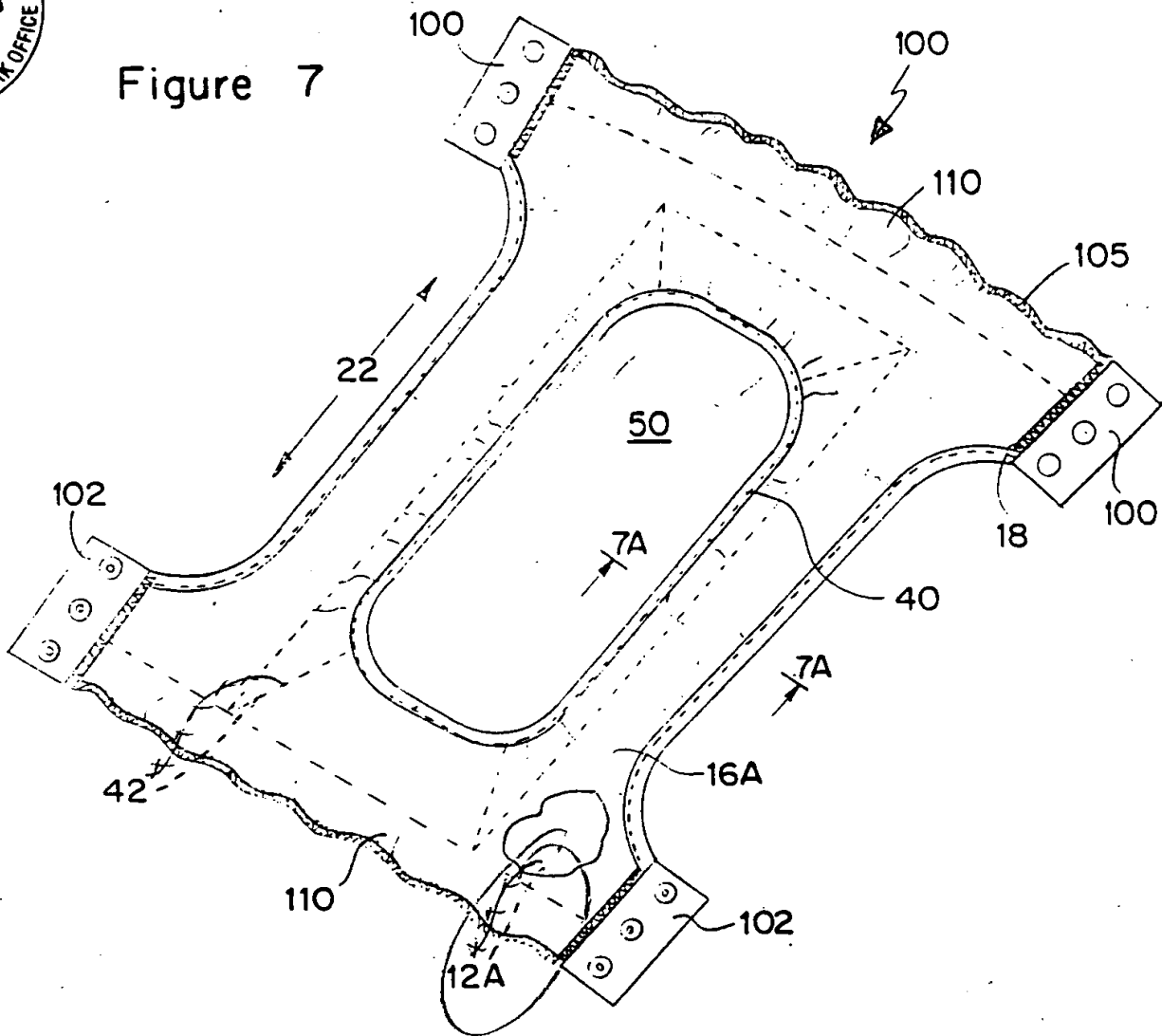


Figure 7A



Figure 7B

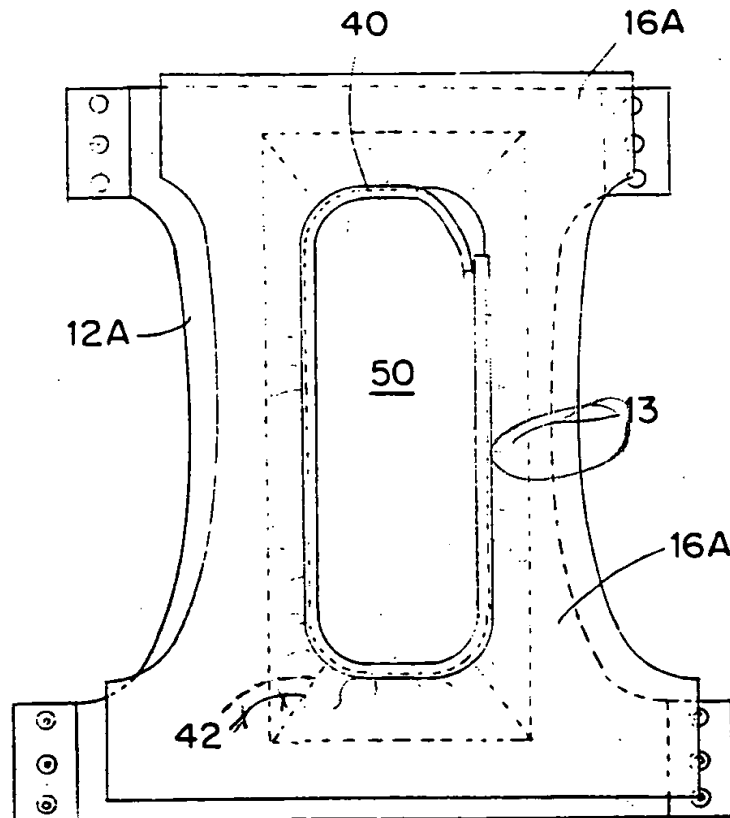




Figure 8

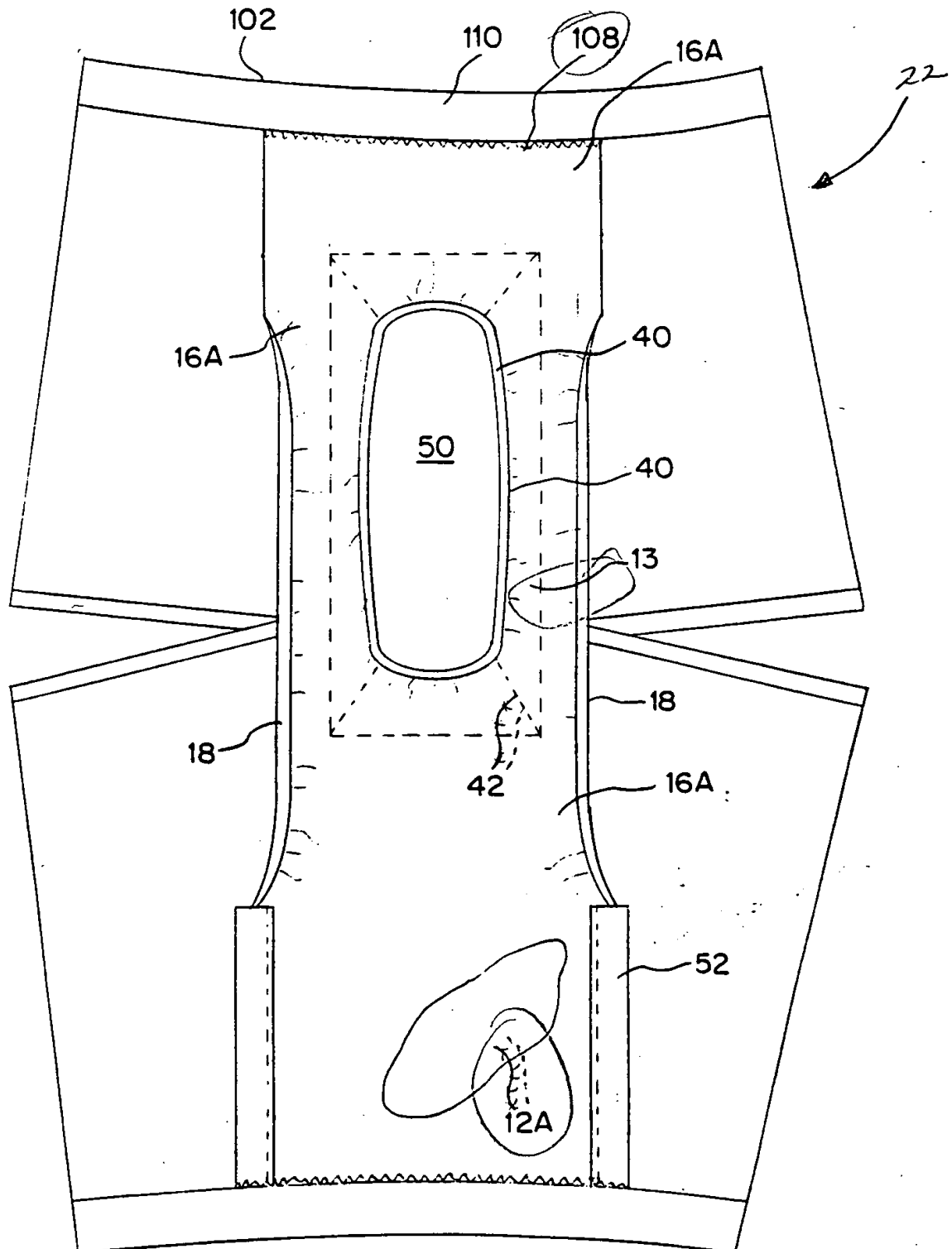




Figure 9

